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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,494	03/24/2006	Hiroto Tanikawa	G&P-5253	9326
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Shrinath Malur Mattingly, Stanger, Malur & Brundige, P.C. Suite 370 1800 Diagonal Road Alexandria, VA 22314			EXAMINER WATTS, JENNA A	
			ART UNIT 1781	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,494

Applicant(s)

TANIKAWA ET AL.

Examiner

Jenna A. Watts

Art Unit

1781

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,6 and 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,6 and 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/14/2010 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding Claims 2 and 8, there does not appear to be support in the originally filed specification for the limitation of simultaneously applying heat and pressure so that they are joined. This is a new matter

rejection and Applicant is encouraged to point out where support can be found for the above mentioned claim limitation.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (JP Patent No. 56-24506) in view of Cassetta et al. (U.S. Patent No. 5,780,091), further in view of Nelson et al. (6,083,545) and further in view of Huang et al. (U.S. Patent No. 5,296,247).

8. Regarding Claims 2, 9 and 10, Kato teaches a method for making filled snacks, such as wontons (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent) that is dried by non-oil-frying (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Regarding steps (a) and (b), Kato teaches kneading a wheat flour mixture of wheat flour, starch and gluten and water and rolling said dough to prepare a large or broad dough sheet (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Kato teaches that the dough is mixed to uniformity and then extended/stretched to a certain thickness to form a dough skin, and this is understood to mean that the dough is rolled to prepare a large or broad dough sheet. Regarding step (c), Kato teaches that the thin dough sheet is cut into 70 mm square shaped skins or wraps, and the skins or wraps are further steamed (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Thus, the large or broad dough sheet is formed into a plurality of sections of a specified size and shape.

9. Regarding step (d) and (e), Kato teaches that the resulting square -shaped skins of dough are filled with freeze-dried pork filling and the perimeters of the dough skin are

joined together by compression, such that the wrap does not fall apart (Page 5, Column 9, lines 1-15 of JP Patent). Since Kato teaches that the perimeters of the dough skin are joined together, it would be expected that the opposite edges would be joined in order to close the skin/wrap of dough. Regarding step (f), Kato further teaches that the resulting wontons are dried with air at 90°C (Page 5, Column 9, lines 1-15 of JP Patent). Thus, the filled snacks or wontons are dried by means other than oil frying. Kato further teaches that after the drying step, the wontons are ready to eat (Page 5, Column 9, lines 1-15 of JP Patent). The wontons as taught by Kato are deemed wrapped dumplings, because they are filled and enclosed dough products.

10. Regarding step (c), Kato does not teach that the rolled dough sheet is steamed prior to being cut into a plurality of smaller sections.

11. Cassetta teaches a method of forming conventional instant noodles and an instant pasta product interleaved with sauce (Column 1, lines 9-10 and Column 2, line 22), wherein a dough is formed, and it is then made into a sheet by conventional roller/sheeters (Column 3, lines 29-30). The sheet is steamed to partially cook it, gelatinize it, improve its elasticity and reduce the stickiness of the product, the steaming step being necessary for instant noodles (Column 3, lines 39-40 and 43-44). Cassetta further teaches adding a dry sauce to the pasta sheets to prepare the instant pasta product (Column 3, lines 60-61 and Column 4, lines 1-2). It is noted that applicant discloses that the filled snacks made from dough are considered "instant" food products (see instant specification, Page 1, lines 5-6) and also teaches that the invention can be

used to make other filled products, such as lasagna, which is understood to imply a pasta product interleaved with sauce (see instant specification, Page 13, line 26).

12. It would have been obvious for one of ordinary skill in the art at the time the invention was made for the method of forming a filled snack as taught by Kato to have included the steaming step prior to the cutting step because Cassetta teaches that such a method is used for the manufacturing of conventional instant noodles that can further be used to prepare a filled dough product. One of ordinary skill in the art would have been motivated to use a known method because such a method would be expected to have a certain degree of success and would thus be suitable for the purpose of preparing a filled dough product.

13. Regarding step (f), Kato in view of Cassetta do not teach that the opposite ends of each of the dough sections are thermally compressed together so that they are joined.

14. Nelson teaches an improved method for sealing the seams of ravioli in commercial production (see abstract). Nelson teaches preparing filled pasta pockets, such as ravioli or other filled pasta pockets (Column 1, lines 33-35), and teaches that commercial production of ravioli has been limited because of the difficulty in ensuring the integrity of the pasta dough seams surrounding the filling (Column 1, lines 18-20). Nelson teaches a method that overcomes the shortcomings of the prior art (Column 1, lines 30-31) by applying hot air to the top and bottom sheets/layers of pasta in the filled pasta pocket, in order to raise the temperature of the top and bottom sheets/layers as the two sheets/layers are sealed together in their peripheral regions (Column 5, lines 5-

13 and Column 6, lines 1-10). Nelson further teaches that the plurality of filled pasta pockets are then compressed together to seal the top and bottom sheets of pasta dough together (Column 2, lines 15-20).

15. Kato in view of Cassetta and Nelson do not specifically teach wherein the opposite edges of each of the sections are thermally compressed together by simultaneously applying heat and pressure so that they are joined or further teach wherein heat is applied at a temperature within the range of 30 to 150°C or wherein pressure is applied within a range of 0.1kg/sq.cm to 50 kg/sq.cm.

16. Huang teaches that in recent years there has been a substantially increased demand for foods which can be prepared quickly and filled pasta products are very popular with consumers and teaches a method of making a filled pasta product, such as ravioli, tortellini, dumplings, wontons, etc. (Column 1, lines 15-20 and 38-42). Huang teaches that the method of making the pasta component of the invention is conducted at temperatures varying from about 70°C to 121°C (Column 5, lines 10-15) and teaches the use of a rotary stamper or cutter that serves to receive and partition the cylindrical pasta shell into pasta segments having axial ends and shaping each segment having a predetermined configuration and sealing the axial ends to capture and retain the filler material within each segment of the pasta shell (Column 13, lines 49-54). Huang teaches that as the precooked cylindrical pasta shell is advanced towards the rotary cutter or stamper, a leading portion thereof is initially pressed downwardly by the leading cutting edge and continued compression of the shell by the leading flat surface urges the filling material to be forced into a centrally located recessed cavity or pocket

(Column 15, lines 25-35 and Figures 13 and 14). Huang teaches that this step is repeated as the trailing cutter edge starts to compress the cylindrical pasta shell and again, filling material in the region of the trailing cutting edge is forced to move into the cavity or pocket. Huang teaches that in this manner, once the pasta segment has been stamped and fully formed, it will substantially fill the entire space defined between each two successive cutters (Column 15, lines 48-50), and therefore, the pasta is seen as being compressed and molded into the resulting form by contact with the stamper with the filling being retained within the pasta shell.

17. Huang further teaches that it will be appreciated that the axial ends must be sealed whereby the upper cylindrical half of the outer wrap is compressed against the lower half of the cylindrical outer wrap, these being flattened by the flat peripheral surface during which filling material between the flattened portions are displaced by pressure into the central region. Huang teaches that once the filling material has been displaced, the upper and lower halves of the pasta shell or wrap are pressed against each other (Column 16, lines 1-6). Huang teaches that by maintaining the temperature of the pasta shell above about 70°C upon extrusion and during the stamping or cutting step, it has been found that the precooked dough fuses to provide a reliable seal or bond, insuring that the filling material is captured and retained within each pasta segment (Column 16, lines 5-10). Therefore, since Huang teaches that the temperature of the pasta is kept above about 70°C during the stamping or cutting step, wherein the temperature is within the range claimed by Applicant, it is understood that heat would be applied or at least maintained in order for this to occur during the stamping and thus

simultaneously with the pressure being applied by the stamping or cutting step. Furthermore, it would have been obvious to one of ordinary skill in the art for the method to have comprised simultaneously applying heat in the claimed temperature range and pressure in order to ensure that a reliable seal is formed between the dough pieces, thereby ensuring that the filling machine is safely encased and retained within the pasta segment.

18. In view of the fact that Applicant states that the thermal compressing operation can be performed with a known conventional compression molding machine and Huang teaches compression molding of the dough into a sealed filled dough product, the apparatus taught by Huang is deemed to meet the claimed requirements of simultaneously applying heat and pressure to the edges of the sections so they are they joined and would be expected to operate within the claimed pressure parameters of between 0.1kg/sq.cm to 50 kg/sq. cm, absent any evidence to the contrary.

19. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (JP Patent No. 56-24506) in view of Cassetta et al. (U.S. Patent No. 5,780,091), and in further view of Tobey et al. (U.S. Patent No. 3,782,271).

20. Kato teaches a method for making filled snacks, such as wontons (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent) that is dried by non-oil-frying (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Regarding steps (a) and (b), Kato teaches kneading a wheat flour mixture of wheat flour, starch and gluten and water and rolling said dough to prepare a large or broad

dough sheet (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Kato teaches that the dough is mixed to uniformity and then extended/stretched to a certain thickness to form a dough skin, and this is understood to mean that the dough is rolled to prepare a large or broad dough sheet. Regarding steps (c) and (f), Kato teaches that the thin dough sheet is cut into 70 mm square shaped skins or wraps, and the skins or wraps are further steamed (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Thus, the large or broad dough sheet is formed into a plurality of sections of a specified size and shape.

21. Regarding steps (g) and (h), Kato teaches that the resulting square -shaped skins of dough are filled with freeze-dried pork filling and the perimeters of the dough skin are joined together by compression, such that the wrap does not fall apart (Page 5, Column 9, lines 1-15 of JP Patent). Since Kato teaches that the perimeters of the dough skin are joined together, it would be expected that the opposite edges would be joined in order to close the skin/wrap of dough. Regarding step (i), Kato further teaches that the resulting wontons are dried with air at 90°C (Page 5, Column 9, lines 1-15 of JP Patent). Thus, the filled snacks or wontons are dried by means other than oil frying. Kato further teaches that after the drying step, the wontons are ready to eat (Page 5, Column 9, lines 1-15 of JP Patent). The wontons as taught by Kato are deemed wrapped dumplings, because they are filled and enclosed dough products.

22. Regarding steps (c) and (f), Kato does not teach that the rolled broad dough sheet is steamed prior to being cut into a plurality of sections of a specified size and a specified shape.

23. Cassetta teaches a method of forming conventional instant noodles and an instant pasta product interleaved with sauce (Column 1, lines 9-10 and Column 2, line 22), wherein a dough is formed, and it is then made into a sheet by conventional roller/sheeters (Column 3, lines 29-30). The sheet is steamed to partially cook it, gelatinize it, improve its elasticity and reduce the stickiness of the product, the steaming step being necessary for instant noodles (Column 3, lines 39-40 and 43-44). Cassetta further teaches adding a dry sauce to the pasta sheets to prepare the instant pasta product (Column 3, lines 60-61 and Column 4, lines 1-2). Applicant discloses that the filled snacks made from dough are considered "instant" food products (see instant specification, Page 1, lines 5-6) and also teaches that the invention can be used to make other filled products, such as lasagna, which is understood to imply a pasta product interleaved with sauce (see instant specification, Page 13, line 26).

24. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made for the method of forming a filled snack as taught by Kato to have included the steaming step prior to the cutting step because Cassetta teaches that such a method is used for the manufacturing of conventional instant noodles that can further be used to prepare a filled dough product. One of ordinary skill in the art would have been motivated to use a known method because such a method would be

expected to have some degree of success and would thus be suitable for the purpose of preparing a filled dough product.

25. Regarding step (d), Kato does not specifically teach that the broad dough sheet is transported. Cassetta teaches an automated process of making a filled dough product, wherein the pasta sheet is transported/conveyed along a conveyor belt as it is processed into a pasta product interleaved with sauce (Column 2, lines 60-61 and Figures 1 and 2). Cassetta further teaches that the broad dough sheet layered with sauce is then cut into selected/specified widths to prepare a plurality of dough strips of selected, and thus narrower, widths, via means known in the art (see Figure 2, reference #34, Column 3, lines 7-9 and Column 4, lines 12-13).

26. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the method of producing a filled snack, as taught by Kato, to include a step of transporting a dough sheet, as taught by Cassetta, because Cassetta teaches an automated process of making a filled dough product using a conveyor belt as a transport means. One of ordinary skill in the art would have been motivated by economical reasons to use a conveyor belt to transport the dough sheet to further processing steps in order to increase the overall productivity of the system.

27. Furthermore, it has been found that "broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art." See MPEP 2144.04 III. In the instant case, Kato teaches a method of preparing a filled dough product wherein the filled

snacks are formed into a specified size and shape from the larger dough sheet (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Automating such an activity to include a step of transporting the dough, as taught by Cassetta, would not materially affect the end product, it would merely increase the efficiency of the system.

28. Regarding step (e), Kato does not specifically teach that the broad dough sheet is slit as it has been transported, into specified widths to prepare a plurality of dough strips of narrower width, before it cuts the strips into specified sizes and shapes. However, it would be expected that multiple cuts would be required to arrive at a square shaped wonton, and changing the configuration or shape of an object has been found to be a matter of choice which a person of ordinary skill in the art would have found obvious, absent evidence that the particular configuration or shape of the claimed object was significant. See MPEP 2144.04 B. One of ordinary skill in the art would have been motivated to arrive at the square-shaped wonton, from the broad dough sheet, in the most efficient way possible.

29. Regarding step (i), Kato in view of Cassetta teach dusting the dough with a dusting agent and teach using a conveyor to transport the dough through the processing steps (see Cassetta, Column 2, lines 57-58 and 60-64) but do not specifically teach that a powder is applied to the surface of a conveying belt for transporting said broad dough sheet in an amount ranging from 0.0014 g/cm^2 to 0.0222 g/cm^2 .

30. Tobey teaches an automatic pie apparatus and method wherein dough is fed into a dough shaping apparatus and the apparatus includes a belt mounted about a pair of pulleys, wherein the dough is shaped between the pulleys to begin its formation into a dough strip (Column 1, lines 10-11 and Column 2, lines 44-46). Tobey teaches that a flour duster is positioned atop the pulley to permit flour to be placed into the dough apparatus to prevent sticking of the dough on the pulleys utilized in shaping the dough into a continuous strip (Column 2, lines 48-52). The flour taught by Tobey is deemed to read on the powder claimed by Applicant. Since Applicant teaches "dusting" flour onto the conveyor, and Tobey teaches the use of a flour duster, it would be expected that a comparable amount of flour would be dusted onto the conveyor or pulley, absent any evidence to the contrary. Furthermore, Tobey is using the flour duster for the known purpose of ensuring that the dough sheet does not stick to the conveying apparatus and therefore, it would have been obvious to one of ordinary skill in the art at the time at the invention was made to optimize the amount of powder or flour dusted onto the surface of the conveyor belt in order to prevent the dough from sticking. One of ordinary skill in the art would have been motivated by economic reasons to use a minimal amount of flour/powder, while still ensuring that the dough did not stick to the surface of the conveyor belt during further processing.

31. It has further been found that, where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges in the amount of powder dusted onto the conveyor involves only routine skill in the art. MPEP 2144.05 II.

32. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (JP Patent No. 56-24506) in view of Cassetta et al. (U.S. Patent No. 5,780,091) and Tobey et al. (U.S. Patent No. 3,782,271) and further in view of Poon (U.S. Patent No. 3,489,105).

33. Kato in view of Cassetta and Tobey are relied upon as above for the rejection of Claim 4.

34. Kato in view of Cassetta and Tobey teach dusting the conveyor with flour, which is a starch powder, to prevent sticking of the dough on the pulleys utilized in shaping the dough into a continuous strip. Cassetta also teaches dusting the dough with a dusting agent to prevent it from sticking and that selected starches can also be used for this purpose (see Cassetta, Column 3, lines 55-59 and Column 5, lines 2-3).

35. However, Kato in view of Cassetta and Tobey do not teach that the powder applied to the conveyor belt is a starch powder that is one of potato starch, tapioca starch, corn starch and sago starch.

36. Poon teaches an improved process of making dough to be used for the wrapping of various foods such as wontons (Column 1, lines 20-25), wherein the dough is continually dusted with corn starch while it is being processed in the dough machine (Column 1, lines 42-43 and Column 2, lines 16-17 and 23-25). It is understood that the dough is dusted with corn starch to prevent it from sticking to the dough machine during processing.

37. Tobey and Poon are solving a similar problem of ensuring that dough is processing without sticking to the machinery or conveyor belt.

38. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to substitute flour, as taught by Tobey, with corn starch, as taught by Poon, because such a functional substitution would not materially affect the objective of ensuring the dough does not stick to the conveyor belt. Corn starch is known in the prior art as an anti-sticking agent and one of ordinary skill could have replaced the flour of Tobey with the corn starch of Poon with a reasonable prediction of success that the corn starch would perform the same anti-sticking function as the flour. See MPEP 2143 Rationale B.

39. Claims 8 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato (JP Patent No. 56-24506) in view of Cassetta et al. (U.S. Patent No. 5,780,091) and Tobey et al. (U.S. Patent No. 3,782,271), further in view of Nelson et al. (U.S. Patent No. 6,083,545) and further in view of Huang et al. (U.S. Patent No. 5,296,247)

40. Kato in view of Cassetta and Tobey are relied upon as above for the rejection of Claim 4.

41. Kato in view of Cassetta and Tobey teach that the perimeters, and thus the opposite edges of each of the sections of the dough are joined together by compression, such that the wonton does not fall apart (see Kato, Page 5, Column 9, lines 1-15 of JP Patent).

42. However, Kato in view of Cassetta and Tobey do not teach that the opposite edges of each of said sections are thermally compressed together so that they are joined.

43. Nelson teaches an improved method for sealing the seams of filled pasta pockets (Column 1, lines 33-35) in commercial production (see abstract). Nelson teaches preparing filled pasta pockets, such as ravioli or other filled pasta pockets (Column 1, lines 33-35), and teaches that commercial production of ravioli has been limited because of the difficulty in ensuring the integrity of the pasta dough seams surrounding the filling (Column 1, lines 18-20). Nelson teaches a method that overcomes the shortcomings of the prior art (Column 1, lines 30-31) by applying hot air to the top and bottom sheets/layers of pasta in the filled pasta pocket, in order to raise the temperature of the top and bottom sheets/layers as the two sheets/layers are sealed together in their peripheral regions (Column 5, lines 5-13 and Column 6, lines 1-10). Nelson further teaches that the plurality of filled pasta pockets are then compressed together to seal the top and bottom sheets of pasta dough together (Column 2, lines 15-20).

44. Kato in view of Cassetta, Tobey and Nelson do not specifically teach wherein the opposite edges of each of the sections are thermally compressed together by simultaneously applying heat and pressure so that they are joined or further teach wherein heat is applied at a temperature within the range of 30 to 150°C or wherein pressure is applied within a range of 0.1kg/sq.cm to 50 kg/sq.cm.

45. Huang teaches that in recent years there has been a substantially increased demand for foods which can be prepared quickly and filled pasta products are very

popular with consumers and teaches a method of making a filled pasta product, such as ravioli, tortellini, dumplings, wonton, etc. (Column 1, lines 15-20 and 38-42). Huang teaches that the method of making the pasta component of the invention is conducted at temperatures varying from about 70°C to 121°C (Column 5, lines 10-15) and teaches the use of a rotary stamper or cutter that serves to receive and partition the cylindrical pasta shell into pasta segments having axial ends and shaping each segment having a predetermined configuration and sealing the axial ends to capture and retain the filler material within each segment of the pasta shell (Column 13, lines 49-54). Huang teaches that as the precooked cylindrical pasta shell is advanced towards the rotary cutter or stamper, a leading portion thereof is initially pressed downwardly by the leading cutting edge and continued compression of the shell by the leading flat surface urges the filling material to be forced into a centrally located recessed cavity or pocket (Column 15, lines 25-35 and Figures 13 and 14). Huang teaches that this step is repeated as the trailing cutter edge starts to compress the cylindrical pasta shell and again, filling material in the region of the trailing cutting edge is forced to move into the cavity or pocket. Huang teaches that in this manner, once the pasta segment has been stamped and fully formed, it will substantially fill the entire space defined between each two successive cutters (Column 15, lines 48-50), and therefore, the pasta is seen as being compressed and molded into the resulting form by contact with the stamper with the filling being retained within the pasta shell.

46. Huang further teaches that it will be appreciated that the axial ends must be sealed whereby the upper cylindrical half of the outer wrap is compressed against the

lower half of the cylindrical outer wrap, these being flattened by the flat peripheral surface during which filling material between the flattened portions are displaced by pressure into the central region. Huang teaches that once the filling material has been displaced, the upper and lower halves of the pasta shell or wrap are pressed against each other (Column 16, lines 1-6). Huang teaches that by maintaining the temperature of the pasta shell above about 70°C upon extrusion and during the stamping or cutting step, it has been found that the precooked dough fuses to provide a reliable seal or bond, insuring that the filling material is captured and retained within each pasta segment (Column 16, lines 5-10). Therefore, since Huang teaches that the temperature of the pasta is kept above about 70°C during the stamping or cutting step, wherein the temperature is within the range claimed by Applicant, it is understood that heat would be applied or at least maintained in order for this to occur during the stamping and thus simultaneously with the pressure being applied by the stamping or cutting step. Furthermore, it would have been obvious to one of ordinary skill in the art for the method to have comprised simultaneously applying heat in the claimed temperature range and pressure in order to ensure that a reliable seal is formed between the dough pieces, thereby ensuring that the filling machine is safely encased and retained within the pasta segment.

47. In view of the fact that Applicant states that the thermal compressing operation can be performed with a known conventional compression molding machine and Huang teaches compression molding of the dough into a sealed filled dough product, the apparatus taught by Huang is deemed to meet the claimed requirements of

simultaneously applying heat and pressure to the edges of the sections so they are they joined and would be expected to operate within the claimed pressure parameters of between 0.1kg/sq.cm to 50 kg/sq. cm, absent any evidence to the contrary.

Response to Arguments

48. Applicant's arguments, filed 5/14/2010, with respect to the rejection(s) of the pending claim(s) over Nelson have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Nelson and further in view of Huang for the amended limitation. It is the position of the Examiner that the amended limitations are rendered obvious by the prior art cited in the rejection for the reasons set forth above.

49. Regarding Applicant's argument that the amount of powder applied to the belt is a non-obvious amount, the Examiner respectfully disagrees. Tobey is applied as teaching a flour duster to prevent dough from sticking to the conveying system, which is the same purpose stated by Applicant for the application of the powder. For this reason, it would be within the skill of one of ordinary skill in the art to choose the amount of flour or powder applied to the conveyor belt to get the maximum anti-sticking effect of the flour or powder, while ensuring that not too much flour is applied, for economic reasons. Furthermore, both flour and corn starch are known in the art as being used to prevent dough from sticking to conveyors or machinery, thus it would have been obvious to substitute one powder for another, depending on the particular application

chosen. Furthermore, as stated above, it has been found that, where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges in the amount of powder dusted onto the conveyor involves only routine skill in the art. MPEP 2144.05 II. Therefore, since it is known in the art to add flour from a duster to conveying systems that are carrying dough to prevent the dough from sticking to the conveyor, discovering the optimal amount of flour would have been within the skill of one of ordinary skill in the art at the time that the invention was made.

Conclusion

50. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna A. Watts whose telephone number is (571) 270-7368. The examiner can normally be reached on Monday-Friday 9am-5:00pm.

51. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

52. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. SAYALA/
Primary Examiner, Art Unit 1781

/Jenna A. Watts/
Examiner, Art Unit 1781
July 1, 2010